No. 372.

Motion to advance.

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IN THE

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Supreme Court of the United States

OCTOBER TERM, 1902.

HARRY B. SMITH, AUDITOR OF MARION COUNTY, INDIANA,
Plaintiff in Error,
v.
THE STATE OF INDIANA, EX REL. MARTHA LEWIS ET AL.,
Defendants in Error.

No. 372.
Error to the Supreme Court of Indiana.

MOTION OF DEFENDANTS IN ERROR TO ADVANCE THE HEARING OF THE CAUSE.

WILLIAM L. TAYLOR,
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For Defendants in Error.

ROSCOE O. HAWKINS,
HORACE E. SMITH,
Attorneys for Plaintiff in Error.

WM. B. BURFORD, PRINTER, INDIANAPOLIS.

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The defendants in error move the court to advance the hearing of this cause.

This action was brought by the relators in the Marion circuit court of Indiana, by filing an application for a writ of mandate to compel the plaintiff in error, as county auditor, to allow a deduction of five hundred dollars from the assessed value of the relators' real estate, on account of an existing mortgage thereon for that sum.

An alternative writ of mandate was issued, to which the said auditor filed a demurrer. The demurrer was sustained. The relators declined to comply further, and electing to stand on said complaint, judgment was rendered for the plaintiff in error. Appeal was taken to the supreme court of Indiana, where the judgment of the circuit court was reversed, and the court below was instructed to allow the deduction of five hundred dollars, as prayed.

An act of the Indiana legislature of 1899 allows to each owner of property a deduction from the assessed value of his property of an amount not exceeding one-half of the value thereof, and in any event not exceeding seven hundred dollars, on account of any mortgage there may be upon said real estate.

About 80,000 tax-payers of Indiana have claimed these deductions. The total sum thus deducted from the tax duplicates of Indiana on account of such mortgages amounts to about $40,000,000 per year. The tax duplicates go to the county treasurers of Indiana on January 1st. The tax-payers have until the first Monday in May in which to pay these taxes. It is of the utmost importance not only to the 80,000 tax-payers who have taken advantage of this law, but all of the other tax-payers in the state, that the question involved in this case be speedily determined, to the end that all of said tax-payers may have their rights adjusted at the tax-paying time, and that the taxing officers may be advised what action to take respecting said deductions.

This case involves not only a very large amount of taxes claimed under such deductions, but also the whole principle of deductions from credits on account of indebtedness. There are allowed in each year about $40,000,000 of deductions from credits on account of indebtedness other than mortgage indebtedness. If these laws allowing such deductions are unconstitutional, it is of very great importance that the state may be so informed at the earliest possible day.

For these reasons, therefore, the defendants in error most respectfully and urgently ask that the hearing of this above entitled cause be advanced.

Respectfully submitted,

WILLIAM L. TAYLOR,
Attorney-General of Indiana,
For Defendants in Error.

The plaintiff in error joins in the request for the advancement of this cause.

Respectfully submitted,

ROSCOE O. HAWKINS,
HORACE E. SMITH,
Attorneys for Plaintiff in Error.